

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

**Illinois Commerce Commission**  
**On Its Own Motion**

**Docket No. 11-0688**

**Amendment of 83 Ill. Adm. Code 735**

:

**REPLY COMMENTS OF THE STAFF**  
**OF THE ILLINOIS COMMERCE COMMISSION**

NOW COMES the Staff of the Illinois Commerce Commission (“Staff”) and files its Reply Comments to the Cable Television and Communications Association of Illinois (“Competitive Providers”) Initial Comments on First Notice of Proposed Rulemaking filed on February 21, 2012 (“CP Comments”). For the reasons set forth in these Reply Comments, Staff does not object to the Competitive Providers’ proposed amendments.

**I. BACKGROUND**

Public Act (“PA”) 96-0927, effective June 15, 2010, created a new regulatory classification termed market regulation for competitive retail services. (220 ILCS 5/13-506.2) Carriers that are regulated pursuant to Section 13-504, Section 13-505, or under alternative regulation pursuant to Section 13-506.1, are permitted to have rates, terms and conditions of their competitive retail services solely determined and regulated pursuant to market regulation. (*Id.*) PA 96-0927 applied the provisions of 83 Ill. Adm. Code 735 (“Part 735”) to the stand-alone residential network access lines and packages required by Section 13-506.2 of the Public Utilities Act (“Act”). (220 ILCS 5/13-506.2(d)) Subsequent to the effective date of PA 96-0927, Staff hosted a workshop process

designed to accord Part 735 with Public Act 96-0927<sup>1</sup>. (Consumer Services Division Staff Report, Docket No. 11-0688, February 28, 2011, p. 1) At the conclusion of this process, parties reached agreement on language to update Part 735, and Staff recommended the initiation of a rulemaking to consider adoption of the proposed revisions. (Consumer Services Division Staff Report, Docket No. 11-0688, February 28, 2011, p. 1-2; Attachment, pp. 2-4) On October 19, 2011, the Commission initiated the instant Docket.

## **II. COMMENTS**

The Competitive Providers state that the proposed amendments to Part 735 “need further modification to conform Part 735 and the Commission’s rules to the language, policy and purpose of the Illinois Public Utilities Act (‘Act’).” (CP Comments at 1) Specifically, the Competitive Providers assert that pursuant to Section 13-101 of the Act, the implementing Sections for Part 735, Sections 8-101 and 9-252, apply only to noncompetitive telecommunications rates and services, and therefore that the Commission does not have jurisdiction to implement the obligations of Sections 8-101 and 9-252 as to telecommunications rates and services classified as competitive. (CP Comments at 1-2) The Competitive Providers recommend modifications to Section 735.30, Scope and Application, intended to remove competitive telecommunications services from Part 735, except for Electing Providers providing or offering the optional packages required by Section 13-506.2(d) of the Act or stand-alone residential network access lines. (CP Comments at 2-3)

---

<sup>1</sup> Staff notes that the Competitive Providers declined to participate in the workshop process.

Staff observes that it does not appear that the Competitive Providers have an objection to the proposed amendments to Part 735 at issue in this Docket. Rather, their objection is to the application of Part 735 to competitive telecommunications rates and services separate from the provisions of PA 96-0927. In this respect, Staff notes that the Competitive Providers are not entirely correct in their claim that under Section 13-101 of the Act, the provisions of Part 735 apply only to noncompetitive telecommunications rates and services. For example, section 735.121, Refunds of Additional Charges, pertains to Sections 9-221 and 9-222 of the Act, both of which clearly apply to competitive telecommunications rates and services under Section 13-101. (220 ILCS 5/13-101) Staff emphasizes that the Competitive Providers obligation to comply with such statutory requirements is absolute, irrespective of the Commission's Rules.

Nevertheless, Staff agrees with the Competitive Providers that Part 735 does require further clarification. Accordingly, Staff does not object to the Competitive Providers proposed modifications.

### **III. CONCLUSION**

Staff does not object to the Competitive Providers proposed modifications as described in the Competitive Providers Initial Comments on First Notice of Proposed Rulemaking in this Docket.

Respectfully submitted,

---

Staff Counsel  
Illinois Commerce Commission

JOHN L. SAGONE  
Office of General Counsel  
Illinois Commerce Commission  
160 North LaSalle St., Suite C-800  
Chicago, IL 60601-3104  
Phone: (312) 814-2908  
Fax: (312) 793-1556  
[jsagone@icc.illinois.gov](mailto:jsagone@icc.illinois.gov)

April 9, 2012

Counsel for the Staff of the  
Illinois Commerce Commission